

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION

Phillip Glymph,)
Petitioner,) Civil Action No.: 1:11-cv-01436-RMG
v.) ORDER
Warden, Turbeville Correctional)
Institution,)
Respondent.)

)

Petitioner is an inmate in state prison and filed this *pro se* petition for a writ of habeas corpus with this Court pursuant to 28 U.S.C. § 2254. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02(B)(2) (D.S.C.), this matter was referred to the United States Magistrate Judge for all pretrial proceedings. Respondent filed a motion for summary judgment, along with a return and memorandum, on October 14, 2011. (Dkt. Nos. 16 and 17). Petitioner filed a response. (Dkt. No. 20). The Magistrate Judge filed a Report and Recommendation recommending that this Court grant Respondent's motion for summary judgment on May 8, 2012. (Dkt. No. 24). The parties were advised that any objections to the Report and Recommendation must be filed in writing within 14 days of service of the Report and Recommendation or face limited review by the District Court and waiver of the right of appeal. See Dkt. No. 24 at 20; *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

On May 29, 2012, Petitioner moved for an extension of time to file objections to the Report and Recommendation until July 30, 2012. (Dkt. No. 28). Petitioner's original deadline for filing objections was May 25, 2012. The Court construed Petitioner's motion as a request for

a 30-day extension and extended Petitioner's time to file objections to the Magistrate Judge's Report and Recommendation until June 30, 2012. (Dkt. No. 29). The Court also denied Petitioner's request for copies of various cases, as the Court is not in a position to provide Petitioner with copies of cases. *Id.*

Notwithstanding the instructions provided as a part of the Report and Recommendation advising Petitioner of the effect of failing to file timely objections and this Court's grant of a 30-day extension to Petitioner, Petitioner failed to file any written objections to the Magistrate Judge's Report and Recommendation. The Court has reviewed the record in this matter, the Report and Recommendation and the applicable law and hereby finds that the Report and Recommendation accurately summarizes the applicable factual and legal issues in this motion. Therefore, the Court hereby adopts the Report and Recommendation as the order of this Court. (Dkt. No. 29). For the reasons articulated by the Magistrate Judge, it is hereby **ORDERED** that Respondent's motion for summary judgment be **GRANTED** and the petition be dismissed with prejudice.

Certificate of Appealability

The governing law provides that:

(c)(2) A certificate of appealability may issue . . . only if the applicant has made a substantial showing of the denial of a constitutional right.

(c)(3) The certificate of appealability . . . shall indicate which specific issue or issues satisfy the showing required by paragraph (2).

28 U.S.C. § 2253(c). A prisoner satisfies the standard by demonstrating that reasonable jurists would find this court's assessment of his constitutional claims debatable or wrong and that any dispositive procedural ruling by the district court is likewise debatable. *See Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *Rose v. Lee*,

252 F.3d 676, 683 (4th Cir. 2001). In this case, the legal standard for the issuance of a certificate of appealability has not been met. Therefore, a certificate of appealability is **denied**.

AND IT IS SO ORDERED.



Richard Mark Gergel
United States District Court Judge

July 11, 2012
Charleston, South Carolina